

McNAMARA, NEY, BEATTY, SLATTERY, BORGES & AMBACHER LLP
ATTORNEYS AT LAW
1211 NEWELL AVENUE, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5330

JAMES V. FITZGERALD, III (State Bar No. 55632)
NOAH G. BLECHMAN (State Bar No. 197167)
AMY S. ROTHMAN (State Bar No. 308133)
McNAMARA, NEY, BEATTY, SLATTERY,
BORGES & AMBACHER LLP
1211 Newell Avenue
Walnut Creek, CA 94596
Telephone: (925) 939-5330
Facsimile: (925) 939-0203

Attorneys for Defendants
OFFICER JAMES COLLEY; ANTIOCH POLICE
DEPARTMENT; and CITY OF ANTIOCH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY MICHAEL MABUTAS, JR.,

Plaintiff,

vs.

OFFICER JAMES COLLEY, in his official
and individual capacities, ANTIOCH
POLICE DEPARTMENT, and CITY OF
ANTIOCH, CALIFORNIA,

Defendants.

Case No. C14-3796 KAW

**STIPULATION AND [PROPOSED]
ORDER TO CONTINUE CASE
MANAGEMENT CONFERENCE**

Judge: Kandis A. Westmore

Plaintiff ANTHONY MICHAEL MABUTAS, JR., and Defendants OFFICER JAMES COLLEY; ANTIOCH POLICE DEPARTMENT; and CITY OF ANTIOCH, by and through their respective attorneys of record, hereby stipulate to the following:

1. WHEREAS Plaintiff filed a civil rights complaint in the United States District Court in the Northern District of California on August 21, 2014, arising out of an incident relating to the arrest of Plaintiff by an officer of the Antioch Police Department on June 9, 2014;

2. WHEREAS Plaintiff has a pending criminal case against him arising out of an April 14, 2015, incident pending in the Superior Court of Contra Costa County. Counsel for Plaintiff is informed that Plaintiff's trial date for the pending criminal case is in late January of 2017.

McNAMARA, NEY, BEATTY, SLATTERY, BORGES & AMBACHER LLP
ATTORNEYS AT LAW
1211 NEWELL AVENUE, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5330

3. Plaintiff is being charged with the following crimes arising out of that arrest:

a. Count 1: Violation of Penal Code § 187 (a) (murder)

i. with the enhancement of Criminal Street Gang under Penal Code § 186.22(b)(1)

ii. with the enhancement of Intentionally Discharging Firearm in Designated Offense Penal Code § 12022.53 (b) (c) and (d)

iii. with special allegation Murder Committed for Criminal Street Gang Purposes Penal Code § 190.2(a) (22)

4. WHEREAS it has previously been agreed that the outcome of the new pending criminal case against Plaintiff may have a direct and/or indirect bearing on the issues in this Fourth Amendment civil rights case.

5. WHEREAS with the exception of third party discovery, this matter is currently stayed until the underlying criminal case against Plaintiff is fully resolved.

6. WHEREAS this matter is currently set for a further Case Management Conference on October 4, 2016.

7. WHEREFORE, the parties, by and through their respective counsel, respectfully seek an Order from the Court to continue the further Case Management Conference to sometime in February or March of 2017.

IT IS SO STIPULATED

The parties attest that concurrence in the filing of these documents has been obtained from each of the other Signatories, which shall serve in lieu of their signatures on the document.

///

McNAMARA, NEY, BEATTY, SLATTERY, BORGES & AMBACHER LLP
ATTORNEYS AT LAW
1211 NEWELL AVENUE, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5330

Dated: July 29, 2016

Law Office of Mark W. Kelsey

By: /s/ Mark W. Kelsey

Mark W. Kelsey
Attorney for Plaintiff
ANTHONY MICHAEL MABUTAS, JR.

Dated: July 29, 2016

McNAMARA, NEY, BEATTY, SLATTERY,
BORGES & AMBACHER LLP

By: /s/ Noah G. Blechman

James V. Fitzgerald, III
Noah G. Blechman
Amy S. Rothman
Attorneys for Defendants
OFFICER JAMES COLLEY; ANTIOCH POLICE
DEPARTMENT; and CITY OF ANTIOCH

ORDER

Pursuant to the parties' stipulation and on a showing of good cause, the Court orders that the further Case Management Conference currently set for October 4, 2016, is hereby rescheduled to 3/7/17, ~~2016~~, at 1:30 p.m. in the undersigned's Department. The parties shall file an Updated Joint Case Management Conference Statement no later than seven (7) days prior to the new Case Management Conference date. Should the pending criminal case of Plaintiff be finally resolved before that time frame, the parties shall jointly provide notice to the Court as soon as feasible.

IT IS SO ORDERED.

Dated: 8/1, 2016

By: Kandis Westmore
HON. KANDIS A. WESTMORE
UNITED STATES MAGISTRATE JUDGE